

REMARKS/ARGUMENTS

Claims 1-4 and 6-17 remain in this application.

Claim 5 has been canceled.

Claim 1 has been amended to positively recite that the distal surface of the plate extends completely over and encloses the cavity formed in the plate. Claim 1 has also been amended to include the limitations of claim 5 therein.

Claim 12 has been amended to positively recite that the distal surface of the plate extends completely over and encloses the cavity formed in the plate.

In response to the Office Action of **January 11, 2008**, Applicant requests re-examination and reconsideration of this application for patent pursuant to 35 U.S.C. 132.

Interview Summary

Applicants wish to thank Examiner David Comstock for granting a personal interview to Applicants' representative William Cuchlinski on April 2, 2008.

During the interview Applicants' representative demonstrated to the Examiner how the present invention differed in construction from the Assaker et al. patent (US 6,652,525), which is currently being applied against claims 1-17 of the present application. In the present invention the distal (top) surface of the plate extends

completely over and encloses the cavity formed in the first and second ends of the plate. On the other hand, the distal (top) surface of Assaker et al. extends over only a small portion of the cavity. As a result of this construction the distal surface cannot enclose the cavity, as now claimed. The complete coverage and enclosure of the cavity also prevents the screw lock from being displaced in an upward direction, toward the distal surface. This displacement of the screw lock would result in disengagement of the screw lock from the bone screws and permit the bone screws to back out of the bones into which they have been inserted.

Examiner Comstock indicated that if independent claims 1 and 12 were amended to recite that the distal surface of the plate extended completely over and covered the cavity these claims would be patentable over the art of record. Also claim 1 would be amended to include the limitations of claim 5. Examiner Comstock also indicated that he would also extend his search to look for these features.

Rejection under 35 USC 103(a)

Claims 1-17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Mangione et al. (US 6,585,738) in view of Assaker et al. (US 6,652,525).

The Examiner alleges that Mangione et al. disclose the invention as claimed except for a slot forming a cavity between the distal and proximal surfaces of the plate and slidable screw locks in the slots and depressions. The Examiner also alleges that Assaker et al. disclose a spinal plate including a slot forming a cavity 26a between the distal and proximal surfaces of the plate and slidable screw locks 22 within the slots.

The Examiner then concludes that it would have been obvious to provide the spinal plate of Mangione et al. with a slot forming a cavity between the distal and proximal surfaces of the spinal plate and with slidable screw locks within the slots and depressions, as taught by Assaker et al., in order to prevent the screws from backing out, without increasing the size of the plate and to improve the reliability and safety of the device.

During the interview on April 2, 2008 Examiner Comstock indicated that if claims 1 and 12 were amended to recite that the distal surface of the plate extended completely over and enclosed the cavity these claims would be patentable over the art of record. Also claim 1 would be amended to include the limitations of claim 5. Claims 1 and 12 have been amended to recite that the distal surface of the plate extends completely over and encloses the cavity. Further, claim 1 has been amended to include the limitations of claim 5. Accordingly, claims 1 and 12 are considered


to be patentable over the Mangione et al., Assaker et al. and the remaining art of record. Claims 2-4, 6-11 and 13-17 depend directly or indirectly on claims 1 and 12 and therefore are considered to be patentable also.

Applicants respectfully request that the rejection of claims 1-17 under 35 U.S.C. 103(a) now be withdrawn and these claims allowed.

SUMMARY

In light of the foregoing remarks and amendments to the claims, it is respectfully submitted that the Examiner will now find the claims of the application allowable. Favorable reconsideration of the application is courteously requested. Should there be any remaining issues which can be resolved via an Examiner's Amendment, the Examiner is urged to call the undersigned in order to expedite the prosecution of this application.

Respectfully submitted,


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